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Attorneys for Defendants
VAXGEN, INC. and LISA BROOKS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ARIA RAZBAN,

Plaintiff,

v.

VAXGEN, INC., a Delaware corporation,
LISA BROOKS, and DOES 1 through 50,
inclusive,

Defendants.

No. C 07-03136 JL

**DECLARATION OF LISA BARNETT SWEEN
IN SUPPORT OF DEFENDANTS VAXGEN,
INC. AND LISA BROOKS' UNOPPOSED
MOTION TO COMPEL INDEPENDENT
MENTAL EXAMINATION OF PLAINTIFF
ARIA RAZBAN PURSUANT TO FEDERAL
RULE OF CIVIL PROCEDURE 35**

Complaint Filed: January 19, 2007
First Am. Compl. Filed: May 16, 2007
First Am. Compl. Served: June 1, 2007
Trial Date: Not Yet Set

I, Lisa Barnett Sween, declare:

1. I am an attorney licensed to practice law in the State of California. I am Special Counsel for the firm of Cooley Godward Kronish LLP, attorneys of record for Defendants VaxGen, Inc. and Lisa Brooks (collectively, "Defendants"). I have personal knowledge of the facts contained in this declaration and could and would testify competently to the same if called as a witness.

2. I am one of the attorneys at my firm working on the case entitled *Aria Razban v. VaxGen, Inc., et. al*, Case No. C 07-03136 JL, pending before this Court. I submit this

1 declaration in support of the Defendants' unopposed motion to compel Plaintiff Aria Razban
2 ("Plaintiff") to submit to, cooperate with, and complete an independent mental examination
3 ("IME") pursuant to Rule 35 of the Federal Rules of Civil Procedure.

4 3. Attached hereto as **Exhibit A** is a true and correct copy of the Amended
5 Complaint filed in this action on or about May 16, 2007.

6 4. Attached hereto as **Exhibit B** is a true and correct copy of Plaintiff Aria Razban's
7 Initial Disclosures as served upon my office on September 13, 2007.

8 5. On November 19, 2007, Gregory C. Tenhoff, a partner in my firm, took the
9 deposition of Plaintiff in this matter. Attached hereto as **Exhibit C** is a true and correct copy of a
10 relevant excerpt from that deposition transcript as provided to my office by the reporter who
11 transcribed the deposition session.

12 6. Attached hereto as **Exhibit D** is a true and correct copy of a doctor's note dated
13 December 7, 2007 that my office received from Plaintiff in response to Defendant VaxGen, Inc.'s
14 First Set of Requests for Production of Documents to Plaintiff Aria Razban.

15 7. Attached hereto as **Exhibit E** is a true and correct copy of a facsimile cover sheet
16 dated March 25, 2008 my office received from Plaintiff, which enclosed a doctor's note dated
17 March 17, 2008 regarding her request to continue the upcoming sessions of her deposition and the
18 parties' Early Neutral Evaluation due to medical reasons.

19 8. On, January 16, 2008, Mr. Tenhoff took the continued deposition of Plaintiff in
20 this matter. Attached hereto as **Exhibit F** is a true and correct copy of a relevant excerpt from
21 that deposition transcript as provided to my office by the reporter who transcribed the deposition
22 session.

23 9. Good cause exists for compelling the IME given that Defendants cannot
24 meaningfully prepare a defense to Plaintiff's emotional distress claims in the absence of an IME.
25 Without an IME, Defendants have no way to investigate and test the truthfulness of Plaintiff's
26 claims of severe and ongoing mental distress, for which she is currently seeking treatment, or to
27 explore the appropriateness and effectiveness of her current treatment regimen.
28

EXHIBIT A

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Attorney for Plaintiff
Aria Razban

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF SAN MATEO - Unlimited Jurisdiction

ARIA RAZBAN, an individual,
Plaintiff,

vs.

VAXGEN, INC. a Delaware Corporation.
LISA BROOKS, and DOES 1 through 50,
inclusive.
Defendants.

CASE NO.: CIV 460333

FIRST AMENDED COMPLAINT FOR DAMAGES

1. Violation of Fair Employment and Housing Act Gov't Code § 12940 (FEHA) - Discrimination
2. Violation of FEHA - Retaliation
3. Violation of FEHA - Harassment
4. Retaliation in Violation of Labor Code § 98.6 and § 1102.5
5. Violation of FMLA & CFRA
6. Wrongful Termination in Violation of Public Policy
7. Intentional Infliction of ED
8. Negligent Infliction of ED

Plaintiff, ARIA RAZBAN, alleges as follows:

PARTIES AND BACKGROUND FACTS

1. At all relevant times mentioned herein, Plaintiff ARIA RAZBAN (hereinafter "Plaintiff") was and is an individual who resides in the County of San Francisco.

1 2. Plaintiff is informed and believes and thereon alleges that Defendant,
2 VAXGEN, INC., is a Delaware corporation, actually doing business in the City and
3 County of San Mateo, State of California (hereinafter "Defendant VAXGEN").

4 3. Plaintiff is informed and believes and thereon alleges that Defendant, Lisa
5 Brooks, performs services for Defendant VAXGEN as a manager and in programming
6 and was the supervising manager to whom Plaintiff reported. At all times mentioned
7 herein, Defendant BROOKS, was acting within the course and scope of her
8 employment as an agent of Defendant VAXGEN.

9 4. Plaintiff is ignorant of the true names and capacities of Defendants sued
10 herein as DOES 1 to 50, inclusive, and therefore sues these Defendants by fictitious
11 names. Plaintiff is informed and believes and on that basis alleges that each of these
12 fictitiously named Defendants is responsible in some way for the occurrences alleged in
13 this Complaint and that Plaintiff's damages as alleged in this Complaint were
14 proximately caused by those Defendants. Plaintiff will amend this complaint to allege
15 their true names and capacities when ascertained. Plaintiff is informed and believes
16 and thereon alleges that each of the fictitiously named Defendants is legally responsible
17 in some manner for the events and occurrences herein alleged, and that Plaintiff's
18 damages as herein alleged were proximately and directly caused by their conduct.

19 5. Plaintiff is informed and believes and thereon alleges that at all times
20 mentioned herein, each Defendant was the partner, joint venturer, alter ego, general
21 agent, servant or employee of the other Defendants and each of them, and in
22 committing the acts or omissions herein mentioned was acting within the course and
23 scope of said agency, servitude, joint venture, joint enterprise, partnership and
24 employment. At all times mentioned herein, each Defendant was charged with and
25 bound by the knowledge and information received by and on behalf of each of the other
26 Defendants. All the acts of the Defendants, and each of them, were ratified and
27 adopted by the acts of the other Defendants and each of them.
28

1 6. The relief sought in this complaint is within the jurisdiction of the Superior
2 Court because Plaintiff is seeking damages in excess of \$25,000.

3 7. Starting on April 12, 2004 and at all relevant times mentioned herein, Plaintiff
4 was employed by Defendant VAXGEN as a Programmer Analyst II working at the
5 VaxGen offices located at 1000 Marina Blvd., Brisbane, California.

6 8. In August of 2004, Plaintiff's mother died following a long and hard battle with
7 cancer. Soon thereafter, Plaintiff started to suffer from post traumatic stress disorder
8 (hereinafter referred to as PTSD) as well as thyroid problems. Plaintiff's manager,
9 Defendant BROOKS, noticed Plaintiff's grief and advised her to start seeing a
10 counselor. In or about early September of 2004, Plaintiff saw a counselor, Dr. Brown,
11 who was recommended by someone in the Employee Assistant program at Defendant
12 VAXGEN. Dr. Brown referred Plaintiff to a Dr. Young who examined Plaintiff and
13 diagnosed her with an abnormal thyroid condition, PTSD and depression and he
14 prescribed medications for these conditions.

15 9. In or about September 2004 Plaintiff noticed that the analysis of the data that
16 she was working on for Defendant VAXGEN was either inaccurate, incomplete,
17 unverified and therefore untrustworthy. Plaintiff also discovered that the software
18 programs purchased by VAXGEN to be used by Defendant to genetically engineer the
19 next generation of the anthrax vaccine had multiple flaws or "bugs" with the program.
20 At that time, Defendant VAXGEN had previously entered into an \$877 million dollar
21 contract with the U.S. Federal Government, Department of Health and Human Services
22 to produce the next generation of anthrax vaccines within a strict contractual deadline.
23 Almost immediately upon her discovery of the problems with the data and the software
24 program, Plaintiff notified Defendant BROOKS and Defendant VAXGEN of these
25 issues.

26 10. Beginning in October 2004, Defendants BROOKS and VAXGEN began to
27 harass Plaintiff by not allowing her to take time off from work to see her doctors. In
28 order to see her doctors for treatment, Plaintiff had to schedule her appointments after

1 6:00 p.m. which was not always available to Plaintiff. Furthermore, Defendant
2 BROOKS maliciously and intentionally started to shout at Plaintiff while at work for
3 trivial and/or non-existent matters, and gave Plaintiff unreasonable deadlines and
4 assignments with the intention of causing Plaintiff to fail at her job. Defendant
5 BROOKS also intentionally provided erroneous information to Plaintiff regarding
6 projects in an effort to sabotage Plaintiff's work at the company and to make her look
7 bad in front of the other employees and management. Defendant BROOKS verbally
8 abused Plaintiff, harassed her and treated Plaintiff differently than the other
9 programmer employees at VaxGen in retaliation for Plaintiff's complaints and
10 discoveries about the flaws and problems with the analysis data and software being
11 used by Defendant VAXGEN.

12 11. In spite of all the harassment and inappropriate conduct by Defendants,
13 Plaintiff continued to do her job and did it well. Plaintiff received high marks on
14 performance evaluations and received a salary increase on January 1, 2005.

15 12. On or about January 14, 2005, at a meeting with the CEO of Defendant
16 VAXGEN, Lance Gordon, along with 10 other VAXGEN employees, Plaintiff again
17 notified Defendants that there were serious problems with the analysis data that she
18 was working with and further advised everyone at the meeting that VaxGen would not
19 pass the FDA's audits due to the fact that the analysis data was not properly or ethically
20 handled, verified or tested.

21 13. On or about January 15, 2005, Plaintiff filed a complaint with the Human
22 Resources Department at VaxGen based upon the hostile work environment created by
23 Defendant BROOKS. In the complaint, Plaintiff complained that she was not allowed
24 by Lisa Brooks to take time off work to see a doctor. Furthermore, Plaintiff stated in her
25 complaints to HR that there were problems with data and the software that was used to
26 analyze the data pertaining to the Anthrax vaccine clinical trials. The HR advised
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1 Plaintiff that she had valid complaints against BROOKS and that HR would talk to Ms.
2 Brooks about changing her treatment of Plaintiff at work.

3 14. On January 20, 2005, the retaliation and harassment of Plaintiff became
4 more severe, worsening Plaintiff's depression and PTSD disorder. Plaintiff was not
5 allowed to go to the doctor during work hours. Defendants BROOKS and VAXGEN
6 retaliated against Plaintiff due to her disability and because of Plaintiff's continued
7 complaints about the work they were doing at VaxGen regarding the data and software
8 issues. Starting in January 2005, after the meeting with the CEO of VaxGen described
9 herein above, Defendant BROOKS refused Plaintiff's requests to allow her to work from
10 home, while other employees were allowed to work at home. Defendant BROOKS also
11 repeatedly invaded Plaintiff's privacy by inappropriately asking Plaintiff many personal
12 questions about what doctors she was seeing and what medications she was taking.
13 Defendants' conduct as described herein was in violation of Americans with Disability
14 Act (hereinafter ADA) rules requiring Defendant to provide Plaintiff with reasonable
15 accommodation for an individual with a disability. Plaintiff met the ADA's definition of
16 disability, since her doctors, including a doctor assigned to her from VaxGen, diagnosed
17 her with PTSD, depression and an abnormal thyroid condition. Plaintiff had a physical
18 and/or mental impairment that substantially limited one or more of her major life
19 activities. Plaintiff also had a record of these impairments and she was regarded as
20 having said impairments by others. Defendant VaxGen further violated the ADA
21 regulations prohibiting retaliation against an individual with a disability by illegal work
22 conditions. None of the stated work conditions were imposed on other employees
23 except Plaintiff; therefore, making Plaintiff a victim of retaliation and discrimination.

24 15. Because of Defendants unreasonable deadlines and work schedule,
25 harassment and retaliation described herein, Plaintiff's medical condition became worse
26 causing among other things, rapid weight gain, crying at work, and severe emotional
27 distress for Plaintiff. Instead of providing a safe environment for Plaintiff to work in,
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1 Defendants VAXGEN and BROOKS, maliciously increased the pressure on her in order
2 to make Plaintiff breakdown and either quit her job or go on medical leave.

3 16. On February 1, 2005, Plaintiff again notified appropriate individuals at
4 Defendant VAXGEN that they were not following FDA's regulations regarding analyzing
5 the critical data associated with the anthrax vaccines. Plaintiff also contacted
6 authorities outside VaxGen to report what was happening with the anthrax vaccines
7 which had gained public attention in the news at that time.

8 17. On February 7, 2005, Defendant BROOKS placed Plaintiff on probation
9 for no apparent reason and without justification. Plaintiff is ordered by BROOKS to
10 finish 7 programs in a month (an unreasonable task which no other programmer at
11 VAXGEN had to accomplish) in order for Plaintiff to be taken off her probation.

12 18. On February 7, 2005, Plaintiff asked Defendant VAXGEN's management,
13 Mike Lock, if she could report to another manager instead of Lisa Brooks, because the
14 harassment caused by Defendant BROOKS was causing Plaintiff's medical condition to
15 become worse. Plaintiff's request was denied without reason, consideration or
16 explanation.

17 19. In just 5 days, on February 12, 2005, Plaintiff had finished 6 of the 7
18 programs that she was ordered to complete by BROOKS. Plaintiff then asked
19 BROOKS if she would lift the probation against her but BROOKS stubbornly and
20 maliciously refused.

21 20. On February 14, 2005, due to the enormous pressures imposed on
22 Plaintiff by Defendants VAXGEN and BROOKS and at the advice of her doctor, Plaintiff
23 had to stop working due to her increasing disabilities and she was placed on medical
24 leave.

25 21. On March 11, 2005, Defendant VAXGEN sent Plaintiff a letter stating
26 among other things that Defendant VAXGEN "may" terminate Plaintiff if she did not
27 return to work by April 11, 2005.

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1 22. On April 8, 2005, Plaintiff advised Defendant that she would return to work
2 shortly after April 11, 2005, as soon as her doctors first reviewed some medical tests
3 and cleared her for work. Plaintiff heard nothing from Defendants in response to her
4 April 8th communication.

5 23. On April 12, 2005, Plaintiff had been employed for Defendant VAXGEN
6 for 1 year and therefore she became eligible for certain benefits that accrued and/or
7 vested in Plaintiff, including but not limited to stock option benefits. Plaintiff was also
8 entitled to the protections under VaxGen's Family and Medical Leave of Absence, the
9 federal Family and Medical Leave Act (hereinafter FMLA), and the California Family
10 Rights Act (hereinafter CFRA). Plaintiff qualified for the leave under these Acts
11 because she was employed for Defendant VAXGEN for at least 12 months and/or she
12 worked at least 1,250 hours in a 12-month period.

13 24. On April 13, 2005, Defendant VAXGEN sent Plaintiff an email indicating
14 that her employment was terminated.

15 25. On April 13, 2005, Plaintiff immediately emailed VaxGen back explaining
16 that she will come back to work in a couple of days after the results of her medical tests
17 are reviewed by her doctor. Plaintiff requested a reasonable accommodation from
18 Defendant for a couple of more days of medical leave. On April 15, 2005, Defendant
19 advised Plaintiff of their refusal to make any accommodation for Plaintiff and VaxGen
20 proceeded to terminate her employment. No undue hardship was created on
21 Defendants by Plaintiff's request for a few more days of medical leave before returning
22 back to work. Defendants' refusal of Plaintiff's simple request for a few days more of
23 medical leave was unreasonable and in violation of the ADA, FMLA and the CFRA.

24 26. As a result of Defendants' actions as alleged above, Plaintiff was wrongfully
25 terminated from her employment with Defendant VAXGEN on or after April 13, 2005.
26 Plaintiff suffered extreme emotional distress, shock, humiliation, anxiety, nervousness,
27 and depression as a result of Defendants outrageous, malicious and intentional conduct
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1 which constitutes serious violations of ADA, FMLA, CFRA, the Fair Employment and
2 Housing Act (hereinafter referred to as FEHA) and public policy. Plaintiff's health was
3 impaired to the point where she was partially disabled physically and mentally as a
4 result of Defendants' actions. In spite of Plaintiff's repeated requests, Defendants
5 refused to provide any reasonable work accommodations for Plaintiff's disabilities, but
6 instead made her working conditions so onerous as to force her to take leave of her job.

7 27. Plaintiff's damages include: unpaid compensation in the amount in excess of
8 \$150,000.00, plus prejudgment interest. Economic losses due to Plaintiff's retaliation,
9 wrongful termination and constructive discharge, including front pay and back pay.
10 Mental and emotional distress which has interfered with Plaintiff's ability to lead a
11 normal life. The monetary value of these damages is believed to be well in excess of
12 \$500,000.00. Plaintiff is entitled to recover attorney's fees and costs of litigation. In
13 addition, the egregious facts and circumstances of this case entitle Plaintiff to punitive
14 damages.

15 **FIRST CAUSE OF ACTION**

16 **(Violation of Fair Employment and Housing Act, Govt. Code § 12940 et seq.)
(Discrimination – Against Defendant VAXGEN)**

17 28. Plaintiff hereby realleges and incorporates by reference Paragraphs 1
18 through 27, inclusive, of the Complaint, as though set forth in full herein.

19 29. This action is brought pursuant to the California Fair Employment and
20 Housing Act, Government Code section 12900 et seq. and the corresponding
21 regulations of the California Fair Employment and Housing Act.

22 30. At all relevant times, Defendant VAXGEN regularly employed five or more
23 persons, bringing Defendant within the provisions of section 12900 et seq. of the
24 Government Code, prohibiting employers or their agents from discriminating against,
25 retaliating against, harassing and failing to provide reasonable accommodations to
26 employees on the basis of physical or mental disability, or to retaliate against
27 employees for complaining about public policy violations.

1 31. On or about January 19, 2006, Plaintiff filed charges of discrimination,
2 harassment and retaliation against Defendants VAXGEN and BROOKS with the
3 California Department of Fair Employment and Housing (hereinafter "DFEH"). The
4 DFEH issued a Right-To-Sue Notice on January 20, 2006.

5 32. Defendants' discriminatory practices, retaliation, harassment, wrongful
6 termination and failure to provide reasonable accommodations, as well as failure to
7 provide family and medical leave, detailed above, constitute actionable violations of the
8 California Fair Employment and Housing Act, Government Code sections 12900 et seq.

9 33. Defendants discriminated against, retaliated against and harassed Plaintiff
10 because of her physical and mental disabilities, and her complaints about the faulty
11 data and software being used by Defendant VAXGEN in the making of the next
12 generation of the anthrax vaccine intended to be used for the common good of the
13 general public. Plaintiff has suffered the effects of verbal harassment, professional
14 injury to her reputation and career and loss of recognition.

15 34. As a consequence of Defendants actions, Plaintiff has suffered damages in
16 an amount to be determined according to proof, and as described in Paragraph 27,
17 above.

18 **SECOND CAUSE OF ACTION**
19 **(Violation of Fair Employment and Housing Act, Govt. Code § 12940 et seq.)**
 (Retaliation -- Against All Defendants)

20 35. Plaintiff hereby realleges and incorporates by reference Paragraphs 1
21 through 27, inclusive, of the Complaint, as though set forth in full herein.

22 36. This action is brought pursuant to the California Fair Employment and
23 Housing Act, Government Code section 12900 et seq. and the corresponding
24 regulations of the California Fair Employment and Housing Act.

25 37. At all relevant times, Defendant VAXGEN regularly employed five or more
26 persons, bringing Defendant within the provisions of section 12900 et seq. of the
27 Government Code, prohibiting employers or their agents from discriminating against,
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1 retaliating against, harassing and failing to provide reasonable accommodations to
2 employees on the basis of physical or mental disability, or to retaliate against
3 employees for complaining about public policy violations.

4 38. On or about January 19, 2006, Plaintiff filed charges of discrimination,
5 harassment and retaliation against Defendants VAXGEN and BROOKS with the DFEH.
6 The DFEH issued a Right-To-Sue Notice on January 20, 2006.

7 39. Defendants' discriminatory practices, retaliation, harassment, wrongful
8 termination and failure to provide reasonable accommodations, as well as failure to
9 provide family and medical leave, detailed above, constitute actionable violations of the
10 California Fair Employment and Housing Act, Government Code sections 12900 et seq.

11 40. Defendants discriminated against, retaliated against and harassed Plaintiff
12 because of her physical and mental disabilities, and her complaints about the faulty
13 data and software being used by Defendant VAXGEN in the making of the next
14 generation of the anthrax vaccine intended to be used for the common good of the
15 general public. Plaintiff has suffered the effects of verbal harassment, professional
16 injury to her reputation and career and loss of recognition.

17 41. As a consequence of Defendants actions, Plaintiff has suffered damages in
18 an amount to be determined according to proof, and as described in Paragraph 27,
19 above.

20 **THIRD CAUSE OF ACTION**
21 **(Violation of Fair Employment and Housing Act, Govt. Code § 12940 et seq.)**
22 **(Harassment -- Against All Defendants)**

23 42. Plaintiff hereby realleges and incorporates by reference Paragraphs 1
24 through 27, inclusive, of the Complaint, as though set forth in full herein.

25 43. This action is brought pursuant to the California Fair Employment and
26 Housing Act, Government Code section 12900 et seq. and the corresponding
27 regulations of the California Fair Employment and Housing Act.
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1 44. At all relevant times, Defendant VAXGEN regularly employed five or more
 2 persons, bringing Defendant within the provisions of section 12900 et seq. of the
 3 Government Code, prohibiting employers or their agents from discriminating against,
 4 retaliating against, harassing and failing to provide reasonable accommodations to
 5 employees on the basis of physical or mental disability, or to retaliate against
 6 employees for complaining about public policy violations.

7 45. On or about January 19, 2006, Plaintiff filed charges of discrimination,
 8 harassment and retaliation against Defendants VAXGEN and BROOKS with the DFEH.
 9 The DFEH issued a Right-To-Sue Notice on January 20, 2006.

10 46. Defendants' discriminatory practices, retaliation, harassment, wrongful
 11 termination and failure to provide reasonable accommodations, as well as failure to
 12 provide family and medical leave, detailed above, constitute actionable violations of the
 13 California Fair Employment and Housing Act, Government Code sections 12900 et seq.

14 47. Defendants discriminated against, retaliated against and harassed Plaintiff
 15 because of her physical and mental disabilities, and her complaints about the faulty
 16 data and software being used by Defendant VAXGEN in the making of the next
 17 generation of the anthrax vaccine intended to be used for the common good of the
 18 general public. Plaintiff has suffered the effects of verbal harassment, professional
 19 injury to her reputation and career and loss of recognition.

20 48. As a consequence of Defendants actions, Plaintiff has suffered damages in
 21 an amount to be determined according to proof, and as described in Paragraph 27,
 22 above.

23 **FOURTH CAUSE OF ACTION**
 24 **(Violations of the Federal Family and Medical Leave Act and the**
 California Family Rights Act)
 (Against Defendant VAXGEN)

25 49. Plaintiff hereby realleges and incorporates by reference Paragraphs 1
 26 through 27, inclusive, of the Complaint, as though set forth in full herein.
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1 50. As a matter of public policy, employers should not subject employees to
 2 retaliation for reporting errors in their work that could affect the general welfare and
 3 safety of the people of the United States. Defendants' actions as alleged above
 4 rendered the working environment so intolerable as to cause Plaintiff to go on medical
 5 leave and thereafter Defendant wrongfully terminated Plaintiff in retaliation for her
 6 complaints about the way that Defendant VAXGEN was making new anthrax vaccines
 7 to be used for the benefit of the general public. Defendant also retaliated and
 8 discriminated against Plaintiff by refusing to make a reasonable accommodation for
 9 Plaintiff who requested a few more days of medical leave before returning back to work.

10 51. As a consequence of Defendants' actions, Plaintiff has suffered damages in
 11 an amount to be determined according to proof, and as described in Paragraph 27,
 12 above.

13 **FIFTH CAUSE OF ACTION**
 14 **(Violation of California Labor Code §§ 98.6 and 1102.5)**
 (California Whistleblower Protection Act)
 (Against Defendant VAXGEN)

15 52. Plaintiff hereby realleges and incorporates by reference Paragraphs 1
 16 through 27, inclusive, of the Complaint, as though set forth in full herein.

17 53. Plaintiff had a statutory right pursuant to California Labor Code sections
 18 1102.5(a-d) to be free from authorities and agents of the Defendant VAXGEN, including
 19 but not limited to Lisa Brooks, using their official authority and influence for the purpose
 20 of intimidating or threatening Plaintiff for disclosing or complaining about information
 21 protected by California Labor Code section 1102.5 including complaints about
 22 unreliable and faulty data and defective software programs where the Plaintiff had
 23 reasonable cause to believe that the information about these problems with the
 24 VAXGEN work on the anthrax vaccine would disclose a violation of state or federal
 25 statute, or a violation or noncompliance with a state or federal rule or regulation.
 26 Defendants conduct as alleged herein above violated Labor Code Section 1102.5(a-d)
 27 because they retaliated against Plaintiff for refusing to participate in an activity that
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1 would result in a violation of state or federal statute, or a violation or noncompliance
2 with a state or federal rule or regulation.

3 54. As a proximate result, Defendants are liable for the civil damages incurred
4 by Plaintiff including but not limited to emotional distress damages for the severe and
5 continuing emotional distress she has suffered as a result, and other damages as set
6 forth in Paragraph 27 above.

7 **SIXTH CAUSE OF ACTION**
8 **(Wrongful Termination in Violation of Public Policy)**
9 **(Against Defendant VAXGEN)**

10 55. Plaintiff hereby realleges and incorporates by reference Paragraphs 1
11 through 54, inclusive, of the Complaint, as though set forth in full herein.

12 56. As a matter of public policy, employers should not subject employees to
13 retaliation for reporting errors in their work that could affect the general welfare and
14 safety of the people of the United States. Defendants' actions as alleged above
15 rendered the working environment so intolerable as to cause Plaintiff to go on medical
16 leave and thereafter Defendant wrongfully terminated Plaintiff in retaliation of her
17 complaints about the way that Defendant VAXGEN was making new anthrax vaccines
18 to be used for the benefit of the general public. Defendant also retaliated and
19 discriminated against Plaintiff by refusing to make a reasonable accommodation for
20 Plaintiff who requested a few more days of medical leave before returning back to work
21 which violated the California Family Rights Act, Government Code section 12495.2, et
22 seq., including but not limited to discrimination, retaliation and harassment based upon
23 denial of family care and medical leave and violation of the California Fair Employment
24 and Housing Act, Government Code section 12490 et seq. for discrimination, retaliation
25 and harassment based upon physical and mental disabilities and based upon exercise
26 of family care and medical leave. Defendants' actions as alleged above rendered the
27 working environment intolerable and resulted in the termination of Plaintiff's position
28 from Defendant VAXGEN.

1 57. As a consequence of Defendants' actions, Plaintiff has suffered damages in
2 an amount to be determined according to proof, and as described in Paragraph 27,
3 above.

4 **SEVENTH CAUSE OF ACTION**
5 **(Intentional Infliction of Emotional Distress)**
6 **(Against All Defendants)**

7 58. Plaintiff hereby realleges and incorporates by reference Paragraphs 1
8 through 27, inclusive, of the Complaint, as though set forth in full herein.

9 59. Defendants' conduct was so outrageous, malicious and oppressive, and was
10 performed intentionally and with reckless disregard towards Plaintiff, and it caused
11 severe emotional distress to Plaintiff. Defendant's conduct towards Plaintiff employee
12 constituted a breach of duty to Plaintiff to provide a work environment free of
13 harassment, retaliation and discrimination.

14 **EIGHTH CAUSE OF ACTION**
15 **(Negligent Infliction of Emotional Distress)**
16 **(Against All Defendants)**

17 60. Plaintiff hereby realleges and incorporates by reference Paragraphs 1
18 through 27, inclusive, of the Complaint, as though set forth in full herein.

19 61. In the alternative to the Fifth Cause of Action, Defendants' conduct was
20 negligent in causing severe emotional distress to Plaintiff. Defendant's conduct towards
21 Plaintiff employee constituted a breach of duty to Plaintiff to provide a work environment
22 free of harassment, retaliation and discrimination. As a direct and legal result of said
23 negligent conduct by Defendant, Plaintiff sustained severe emotional distress, anxiety,
24 shock and humiliation in addition to the other damages set forth herein above.

25 **WHEREFORE**, Plaintiff demands a trial by jury and prays for judgment against
26 Defendants, and each of them as follows:

27 1. For all compensatory and consequential damages against Defendant of at
28 least \$650,000.00 and in an amount to be determined according to proof at trial;

2. For all damages proximately caused by the acts and omissions of Defendant;
3. For prejudgment interest on all amounts claimed;
4. For all attorneys fees;
5. For punitive damages to set an example and teach Defendant a lesson for engaging in said malicious and intentional conduct, and
6. For the costs of suit herein.
7. For such other and further relief as this Court may deem just and proper.

Dated: May 16, 2007

LAW OFFICES OF IRA LESHIN

By: 

Ira Leshin
Attorneys for Plaintiff,
Aria Razban

EXHIBIT B

Ira Leshin, State Bar No. 139768
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Attorney for Plaintiff
Aria Razban

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

ARIA RAZBAN, an individual,
Plaintiff,

vs.

VAXGEN, INC. a Delaware Corporation,
LISA BROOKS, and DOES 1 through 50,
inclusive.

Defendants.

CASE NO.: C 07-03136 JL

PLAINTIFF ARIA RAZBAN'S INITIAL
DISCLOSURES PURSUANT TO
FEDERAL RULES OF CIVIL
PROCEDURE 26(a)(1)

Plaintiff Aria Razban provides the following disclosures pursuant to Federal Rule of Civil Procedure 26(a)(1) of the United States District Court for the Northern District of California. The disclosures herein are based upon information presently known to the plaintiff, and she reserves her right to amend or supplement these disclosures pursuant to FRCP 26(e).

1. List of Knowledgeable Individuals concerning plaintiff's employment, job duties, job performance, and circumstances surrounding her discharge from employment. The following individuals are likely to have information that Plaintiff may

1 use to support her allegations in this action. By listing such individuals, Plaintiff makes
2 no representation that these individuals have such information.

3 (a) Aria Razban

4 (b) Lisa Brooks

5 (c) Dino Wright

6 (d) Karen Green

7 (e) Erin Elliott

8 (f) Mike Lock

9 (g) Lance Gordon

10 (h) Larry Brooks

11 (i) Bojena Bitman

12 (j) Setsuko Chiba

13 (k) Linda Collins

14 (l) Kevin Lee

15 (m) Steven Vaziri

16 (n) Vineeta Gulati

17 (o) Lynne Deans

18 (p) Aimee Luck

19 (q) Michael Longhi

20 (r) Joanna Van Elk

21 (s) Jeanette Page

22 (t) Steve Pomeroy

23 (u) Valerie George

24 (v) Robert Schilling

25 (w) Marc Gurwith

26 The addresses for these people are unknown to plaintiff but it is believed that
27 defendant has this information in their possession or control.

28

2. **Relevant, privileged documents**

- (a) Plaintiff's personnel filed and employment records in defendant's possession.
- (b) Medical records from Plaintiff's treating physicians in the healthcare providers possession.

3. **Claimed Damages (exact amounts are unknown at this time)**

- (a) Medical expenses
- (b) Lost income (front pay and back pay) and earning capacity
- (c) General damages for emotional distress
- (d) Punitive damages
- (e) Attorneys fees
- (f) Prejudgment Interest
- (g) Statutory penalties
- (h) Stock Options

4. **Documents regarding allegations and damages**

- (a) Medical records and bills (not yet in our possession)
- (b) Payroll and employment records from defendant
- (c) Plaintiff's personnel files held by defendant
- (d) Multiple emails and other correspondence between plaintiff and defendant

Subject to the Court's entry of a protective order, plaintiff will produce copies of said documentation to defense counsel that Plaintiff may use to support her claims.

Dated: September 13, 2007

LAW OFFICES OF IRA LESHIN

By: 

Ira Leshin
Attorneys for Plaintiff,
Aria Razban

CERTIFICATE OF SERVICE

I declare that I am over the age of eighteen years and that I am not a party to the action entitled Razban v. Vaxgen, Inc. et al. U.S. District Court, Northern District of California, San Francisco Division, Case No. C 07-03136 JL. My business address is LAW OFFICES OF IRA LESHIN, 220 Sansome Street, Sixth Floor San Francisco, CA 94104. On the date set forth below, I served the following document(s) on the parties in this action:

1. PLAINTIFF ARIA RAZBAN'S INITIAL DISCLOSURES PURSUANT TO FEDERAL RULES OF CIVIL PROCEDURE 26(a)(1); AND
2. THIS CERTIFICATE OF SERVICE

Service of these documents was accomplished in the following manner:

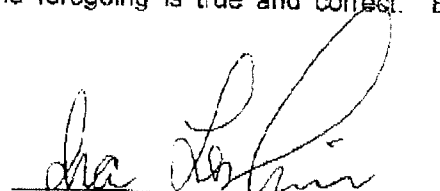
- ☒ **By First Class Mail:** I placed each document listed above in sealed envelope(s), addressed to the recipient(s) set forth below, with pre-paid postage affixed thereto, and deposited said envelope(s) in a recognized place of deposit for collection and delivery by first-class United States Mail.
- ☒ **By Facsimile:** I caused each document to be transmitted to the recipient(s) set forth below at their respective facsimile numbers as indicated.
- ☐ **By Personal Service:** I personally served each document listed above on the recipient(s) set forth below.
- ☐ **By Courier/Messenger:** I placed each document listed above in a sealed envelope(s), addressed to the recipient(s) set forth below, and arranged personal delivery of the same through a messenger/courier service, for delivery to be accomplished on this date.

Said document(s) were delivered to following recipients:

Gregory C. Tenhoff, Esq.
COOLEY GODWARD KRONISH LLP
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

Fax: 650-849-7400

I declare under penalty of perjury that the foregoing is true and correct. Executed September 13, 2007, at San Francisco, California.


Ira Leshin

PROOF OF SERVICE

EXHIBIT C

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CERTIFIED COPY

ARIA RAZBAN,

Plaintiff,

vs.

No. C07-03136 JL

VAXGEN, INC., a California corporation,

LISA BROOKS, and DOES 1 through 50,

inclusive,

Defendants.

-----/

DEPOSITION OF

ARIA RAZBAN

SAN FRANCISCO, CALIFORNIA

NOVEMBER 19, 2007

ATKINSON-BAKER, INC.

COURT REPORTERS

(800) 288-3376

www.depo.com

REPORTED BY: DANUTA KRANTZ, CSR NO. 4782

FILE No.: A108449

EXHIBIT "C"

COPY

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 - - -

4
5 ARIA RAZBAN,

6 Plaintiff,

7 vs.

No. C07-03136 JL

8 VAXGEN, INC., a California corporation,

9 LISA BROOKS, and DOES 1 through 50,

10 inclusive,

11 Defendants.

12 -----/

13
14
15 Deposition of ARIA RAZBAN, taken on behalf of
16 Defendants, at Cooley, Godward, 101 California Street,
17 Fifth floor, San Francisco, California, commencing at
18 9:13, Monday, November 19, 2007, before Danuta Krantz,
19 CSR No. 4782.

A P P E A R A N C E S

FOR THE PLAINTIFF:

LAW OFFICES OF IRA LESHIN

220 Sansome Street

Sixth floor

San Francisco, CA 94104

BY: IRA LESHIN, ESQUIRE

FOR THE DEFENDANTS:

LAW OFFICES OF COOLEY, GODWARD

101 California Street

Fifth floor

San Francisco, CA 94111

BY: GREGORY TENHOFF, ESQUIRE

Videographer: Lou Meadows

Also Present: Lisa Brooks, John Grijalva

CERTIFICATE OF REPORTER

I, DANUTA KRANTZ, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition nor in any way interested in the event of this cause and that I am not related to any of the parties thereto.

DATED: 5 DECEMBER, 2007

Danuta Krantz

DANUTA KRANTZ, CSR 4782

1 mentioned to us that Dr. Young prescribed, were there 10:35
2 any other treatments that were prescribed for you 10:35
3 during that time frame from August of 2004 until 10:35
4 February 14th of 2005? 10:35
5 A. By Dr. Young? 10:36
6 Q. What is that? 10:36
7 A. By Dr. Young? 10:36
8 Q. By anyone else. 10:36
9 A. I am sorry, I don't remember. I may have 10:36
10 seen a dermatologist at that time through that period. 10:36
11 Q. Anyone else? 10:36
12 A. I don't recall. 10:36
13 Q. All right. During that time period, you 10:36
14 mentioned a number of symptoms, gaining weight rapidly, 10:36
15 couldn't sleep, throat swollen, anxiety attacks, heart 10:36
16 beating fast, asthma attacks, and other things. 10:36
17 How, if at all, did those affect your 10:36
18 ability to do your work for VaxGen? 10:36
19 A. I thought I was doing a good job. 10:36
20 Q. And my question was different than that, 10:37
21 though, which is, did any of these symptoms that you 10:37
22 have described in your mind affect your ability to do 10:37
23 your job at VaxGen? 10:37
24 A. It was a tough time for me, but I did a 10:37
25 good job. 10:38

1 Q. So if I am understanding you correctly, 10:38
2 despite the symptoms and the tough time, you felt you 10:38
3 still could perform your job functions at VaxGen and 10:38
4 that you did so? 10:38
5 A. Yes. 10:38
6 Q. What effect did these symptoms have on any 10:38
7 of your other activities in your life? And by that I 10:38
8 mean, the activities we all do in our daily work, our 10:38
9 daily lives, walking, seeing, breathing, caring for 10:38
10 yourself, performing manual tasks, all of those kinds 10:38
11 of things. 10:38
12 How, if at all, did those symptoms affect 10:38
13 your ability to do those activities? 10:38
14 A. I was grieving, so I did not enjoy social 10:39
15 gatherings with a lot of people. 10:39
16 Q. Any other ways in which it affected the 10:39
17 other activities in your life? 10:39
18 A. I spent less time spending with my friends 10:39
19 going out. 10:40
20 Q. Any others? 10:40
21 A. I am sure there were. I just cannot 10:40
22 remember. I think I became withdrawn. 10:40
23 Q. Any others? 10:40
24 A. I can't remember at the moment. I am sure 10:40
25 there were other things. 10:41

EXHIBIT D

06-Dec-2007 03:43pm From: Dept. of Psychiatry-Kaiser, San Francisco 4158334765

T-920 P.002/002 F-620

The Permanente Medical Group, Inc.

Psychiatry
4141 Geary Blvd
San Francisco, CA 94118-3109
Dept: 415-833-2292
Main: 415-833-2000

December 7, 2007

Dear Sirs:

My patient Aria Razban has been unable to see her therapist because therapist is out sick until December 14. She has been retraumatized by the recent depositions. She also has a severe exacerbation of her asthma that has often led to pneumonia in past winters. I think depositions must be postponed until the new year of 2008.

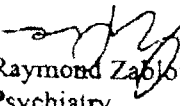

Raymond Zablotny MD
Psychiatry

EXHIBIT " D "

EXHIBIT E



ATTORNEYS AT LAW

220 Sansome Street • Sixth Floor
 San Francisco, CA 94104
 tel: 415.398.3950
 fax: 415.398.1567

FACSIMILE TRANSMITTAL SHEET**March 25, 2008**

To:	Gregory C. Tenhoff.
Attention:	COOLEY GODWARD KRONISH LLP
Fax No.:	650-849-7400

From:	Ira Leshin
No. of Pages:	2 (Including Cover Sheet)
Re:	ARIA RAZBAN

A hard copy of this document:

☐ will be sent by ☐ U.S. Mail ☐ messenger ☐ Express delivery.
☒ will not be sent.

Message: Please deliver this fax to MR. TENHOFF. Thank you.

Hello Greg:

Attached is a letter from Aria's doctor concerning her need for a continuance for the deposition and the ENE. Also, I have received your authorizations for the release of medical records, I will review them with Ms. Razban shortly and get back to you shortly.

If you do not receive all pages, please call our office at (415) 398-3950.

Notice to Recipient: The information contained in this Facsimile is confidential and may also be subject to attorney-client privilege. The information is intended only for the use of the individual or entity to whom it is addressed. If you are not the intended recipient, or the employee or agent responsible for the proper delivery of these documents, you are hereby notified that any use, dissemination, distribution or copying of this communication is strictly prohibited. If you have received this facsimile in error, please immediately notify our office by telephone and we will make whatever arrangements are necessary to retrieve the mistakenly sent documents. Thank you for your cooperation.

EXHIBIT "E"

The Permanente Medical Group, Inc.

PSYCHIATRY

4141 Geary Blvd

San Francisco, CA 94118-3109

Dept: 415-833-2292

Main: 415-833-2000

March 17, 2008

To whom it may concern:

Ms. Aria Razban has been retraumatized by recent events related to a lawsuit in which she is engaged. Her asthma is also severely exacerbated at this time, triggered by the retraumatization; her asthma has often led to pneumonia in the past. Please aim to delay further legal action in which Ms. Razban must be involved until May 2008.

Sincerely,


Raymond Zablithy, MD

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

- - -

ARIA RAZBAN,

Plaintiff,

vs.

No. C07-03136 JL

VAXGEN, INC., a California

corporation, LISA BROOKS, and

DOES 1 through 50, inclusive,

Defendants.

-----/

DEPOSITION OF

ARIA RAZBAN

VOLUME II

SAN FRANCISCO, CALIFORNIA

JANUARY 16, 2008

CERTIFIED COPY

ATKINSON-BAKER, INC.

COURT REPORTERS

(800) 288-3376

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REPORTED BY: DANUTA KRANTZ, CSR NO. 4782

FILE No.: A20007E

EXHIBIT "F"

1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA

3 - - -

4 ARIA RAZBAN,

5 Plaintiff,

6 vs.

7 No. C07-03136 JL

8 VAXGEN, INC., a California

9 corporation, LISA BROOKS, and

10 DOES 1 through 50,

11 inclusive,

12 Defendants.

13 -----/

14
15 Deposition of ARIA RAZBAN, taken on behalf of
16 Defendants, at Cooley, Godward, 101 California Street,
17 Fifth floor, San Francisco, California, commencing at
18 10:15, Wednesday, January 16, 2008, before Danuta
19 Krantz, CSR No. 4782.
20
21
22
23
24
25

A P P E A R A N C E S

FOR THE PLAINTIFF:

LAW OFFICES OF IRA LESHIN

220 Sansome Street

Sixth floor

San Francisco, CA 94104

BY: IRA LESHIN, ESQUIRE

FOR THE DEFENDANTS:

LAW OFFICES OF COOLEY, GODWARD

101 California Street

Fifth floor

San Francisco, CA 94111

BY: GREGORY TENHOFF, ESQUIRE

Videographer: Lou Meadows

Also Present: Lisa Brooks, John Grijalva

CERTIFICATE OF REPORTER

I, DANUTA KRANTZ, a Certified Shorthand Reporter, hereby certify that the witness in the foregoing deposition was by me duly sworn to tell the truth, the whole truth and nothing but the truth in the within-entitled cause;

That said deposition was taken down in shorthand by me, a disinterested person, at the time and place therein stated, and that the testimony of the said witness was thereafter reduced to typewriting, by computer, under my direction and supervision.

I further certify that I am not of counsel or attorney for either or any of the parties to the said deposition nor in any way interested in the event of this cause and that I am not related to any of the parties thereto.

DATED: January 16, 2008

Danuta Krantz

DANUTA KRANTZ, CSR 4782

1 from the company. 14:38

2 I am asking you, as you sit here today, can 14:38

3 you identify a specific e-mail to me in which you made 14:38

4 such a complaint, that you were being harassed because 14:38

5 of your disability? 14:38

6 A. I believe so. I believe there are e-mails 14:38

7 that I said that I am being harassed because I am sick. 14:38

8 Q. And if you had those e-mails, those have 14:38

9 been produced in this litigation; is that right? 14:38

10 A. I need to look at my documents. 14:38

11 Q. Are there any documents that you have not 14:38

12 produced that would indicate that? 14:38

13 A. It's possible. 14:38

14 Q. If those documents exist and have not been 14:38

15 produced, are you willing to produce those? 14:38

16 A. Of course. 14:39

17 Q. Now, apart from documents, did you 14:39

18 communicate with anyone verbally at VaxGen and tell 14:39

19 them you thought you were being harassed because of 14:39

20 your disability? 14:39

21 MR. LESHIN: Other than what she said about 14:39

22 Erin so far? 14:39

23 MR. TENHOFF: Other than what she said 14:39

24 about Erin. 14:39

25 THE WITNESS: Would you give me time to 14:39

1 think about that? I need to think about that. 14:39

2 MR. TENHOFF: Q. Sitting here today, can 14:39

3 you recall anything? 14:39

4 A. I am sure there were. I just need to think 14:39

5 about it. 14:39

6 Q. Sitting here today, can you recall any? 14:39

7 A. I told Bojeana, because she noticed the 14:39

8 harassment. I told David. I know there were more 14:40

9 people. I know I talked to Mike Lock. I talked to so 14:40

10 many people in private hoping I could resolve this. I 14:40

11 just need to think about it and look at e-mails. 14:40

12 Q. Any other ones that you can identify 14:40

13 sitting here today? 14:40

14 A. I remember talking to Steven and telling 14:40

15 him that, that I was being harassed. And I was trying 14:41

16 to discourage him from coming to VaxGen, because I told 14:41

17 him it was a hostile environment. 14:41

18 Q. What was Steven's last name? 14:41

19 A. Vizarri. 14:41

20 Q. At the time, he was not employed by the 14:41

21 company? 14:41

22 A. No. 14:41

23 Q. Anybody at the company other than what you 14:41

24 have identified? 14:41

25 A. Actually, he was hired, but he had not 14:41

1 started yet. 14:42

2 Q. Anyone else at the company other than what 14:42

3 you have identified? 14:42

4 A. I remember once I was working out with 14:42

5 Jeannette Page. And I was crying, and I was saying 14:42

6 that I am being harassed, and I am overwhelmed. It was 14:42

7 too much for me to take with everything going on. 14:42

8 Q. Did you believe that -- strike that. 14:42

9 Let's go back to Exhibit 28. Can you get 14:42

10 that in front of you? 14:43

11 A. But I believe there are more. I have to 14:43

12 look at documents. 14:43

13 Q. Take a look at Exhibit 28. Look at the 14:43

14 chart on the second page on Exhibit 28. You have got 14:43

15 it right in front of you there. It's one you just had 14:43

16 open. Take a look at the second page of Exhibit 28, 14:43

17 please. 14:43

18 A. Can we take a little break? Is that okay? 14:43

19 MR. LESHIN: Sure. We have gone for 14:43

20 another hour. 14:43

21 Do you mind? 14:43

22 THE WITNESS: I could get more coffee. 14:43

23 THE VIDEOGRAPHER: Off the record. The 14:43

24 time is 2:43 p.m. 14:43

25 (Short recess.) 14:43

EXHIBIT G

LAW OFFICES OF IRA LESHIN
 IRA LESHIN (139768)
 200 Sansome Street, 6th Floor
 San Francisco, CA 94104
 Telephone: (415) 398-3950
 Facsimile: (415) 398-1567

Attorney for Plaintiff
 ARIA RAZBAN

COOLEY GODWARD KRONISH LLP
 GREGORY C. TENHOFF (154553)
 LISA BARNETT SWEEN (191155)
 ELIZA HOARD (238276)
 Five Palo Alto Square
 3000 El Camino Real
 Palo Alto, CA 94306-2155
 Telephone: (650) 843-5000
 Facsimile: (650) 849-7400

Attorneys for Defendants
 VAXGEN, INC. and LISA BROOKS

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

ARIA RAZBAN,

Plaintiff,

v.

VAXGEN, INC., a Delaware corporation,
 LISA BROOKS, and DOES 1 through 50,
 inclusive,

Defendants.

No. C 07-03136 JL

**STIPULATION TO EXTEND DISCOVERY
 CUTOFF; NONOPPOSITION TO
 INDEPENDENT MENTAL EXAMINATION;
 AND PLAINTIFF'S AUTHORIZATION TO
 RELEASE MEDICAL RECORDS ;
 [PROPOSED] ORDER**

Complaint Filed: January 19, 2007
 First Am. Compl. Filed: May 15, 2007
 First Am. Compl. Served: June 1, 2007
 Answer Filed/Served: June 13, 2007

///

///

///

///

///

1 Pursuant to Rule 29 of the Federal Rules of Civil Procedure, Plaintiff Aria Razban and
2 Defendants VaxGen, Inc. and Lisa Brooks (collectively, "Defendants"), through their counsel of
3 record, hereby stipulate to extend the non-expert discovery deadline from April 1, 2008 to July 1,
4 2008.

5 Plaintiff further stipulates that: (1) She will not oppose any motion filed by Defendants
6 pursuant to Rule 35(a) of the Federal Rules of Civil Procedure; (2) She will execute valid
7 authorization forms permitting Kaiser (located at 2238 Geary Blvd., San Francisco, CA, 94115)
8 to release to Plaintiff's counsel medical records relating to the claims, injuries and/or illnesses at
9 issue in this action, and thereafter Plaintiff's counsel will promptly produce any of the above-
10 described documents to Defendants, with the exception of documents that are legitimately
11 withheld on grounds of lack of relevancy (which documents Plaintiff's counsel shall identify to
12 Defendants in writing, including the grounds for withholding any such documents); and (3)
13 Plaintiff will execute valid authorization forms permitting the medical providers and/or medical
14 facilities identified below to release to Defendants her medical records relating to the claims,
15 injuries and/or illnesses at issue in this action pursuant to subpoena:

- 16 • Dr. Raymond Zablotny, M.D., The Permanente Medical Group, Inc., Psychiatry,
17 4141 Geary Blvd., San Francisco, CA, 94118, 415-833-2292;
- 18 • Deacon McNeil, St. Dominic's Church, 2390 Bush St., San Francisco, CA, 94115;
- 19 • Ellan Brown, 1902 Webster #402, San Francisco, CA, 94115; and
- 20 • Dr. Clinton Young, 2100 Webster #423, San Francisco, CA, 94115.

21 IT IS SO STIPULATED:

22 Dated: March 12, 2008

LAW OFFICES OF IRA LESHIN

23 By: 
24 Ira Leshin

25 Attorney for Plaintiff ARIA RAZBAN
26
27
28

1 Dated: March 12, 2008

COOLEY GODWARD KRONISH LLP

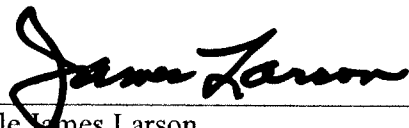
2
3 By: 

Lisa Barnett Sween

4 Attorneys for Defendants
5 VAXGEN, INC. and LISA BROOKS

6 **IT IS SO ORDERED:**

7 Dated: 3-20, 2008


8 Honorable James Larson
9 United States Magistrate Judge

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25 1077424 v2/SF
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